

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TROY GILLAM,

Petitioner,

Case No. 4:06-cv-41

v.

Honorable Paul L. Maloney

BLAINE LAFLER,

Respondent.

**ORDER REGARDING LEAVE TO PROCEED *IN FORMA PAUPERIS* ON APPEAL
AND DENYING CERTIFICATE OF APPEALABILITY**

This is a habeas corpus action brought by a state prisoner pursuant to 28 U.S.C. § 2254, challenging his state court convictions for assault with the intent to do great bodily harm less than murder and possession of a firearm during the commission of a felony. On June 16, 2009, Court entered an Order and Judgment dismissing the petition. The Court also denied Petitioner a certificate of appealability. Petitioner has now filed a notice of appeal, a motion for certificate of appealability, and a motion to proceed as a pauper on appeal. (Dkt. #28-30).

Sixth Circuit Internal Operating Procedure 5.1 provides that a \$450.00 docketing fee and a \$5.00 filing fee must be paid to the district court when a notice of appeal is filed. Petitioner was permitted to proceed before this Court *in forma pauperis*. Pursuant to Rule 24(a) of the Federal Rules of Appellate Procedure, he may continue that status on appeal unless this court certifies that his appeal is not taken in good faith. Good faith is judged objectively and an appeal is taken in good faith when it seeks review of an issue which is not frivolous. *Coppedge v. United States*, 369 U.S.

438, 445 (1961). Detailed reasons for dismissal of the petition were provided in the Report and Recommendation, (dkt. #23), which was adopted by this Court.

The Court reaffirms its decision and finds that the issues on which Petitioner seeks review are frivolous. The Court, therefore, certifies that the appeal is not taken in good faith. If Petitioner wishes to proceed with his appeal, he must pay the \$455.00 appellate fee to the Clerk of this Court with thirty days of this order. Alternatively, Petitioner may file a motion for leave to proceed *in forma pauperis* in the Court of Appeals pursuant to the requirement set forth in FED. R. APP. P. 24(a)(5).

IT IS ORDERED that Petitioner is DENIED leave to proceed *in forma pauperis* on appeal. The Court certifies that the appeal is not taken in good faith. If Petitioner wishes to proceed with his appeal, he must pay the \$455.00 appellate fee to the Clerk of this Court with thirty days of this order. Alternatively, Petitioner may file a motion for leave to proceed *in forma pauperis* in the Court of Appeals pursuant to the requirement set forth in FED. R. APP. P. 24(a)(5).

Dated: July 15, 2009

/s/ Paul L. Maloney
Paul L. Maloney
Chief United States District Judge